

David L. Mazaroli (DM-3929)
Attorney for Plaintiff
11 Park Place – Suite 1214
New York, NY 10007-2801
Tel. (212)267-8480
Fax. (212)732-7352
e-mail: dlm@mazarolilaw.com

-----X
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----X

SHINKONG INSURANCE CO. LTD. :

Plaintiff, :

- against - :

UPS OCEAN FREIGHT SERVICES, INC.; :
UPS SUPPLY CHAIN SOLUTIONS; :
M/V “BEI DAI HE”, her engines, tackle, :
boilers, etc.; :

Defendants. :
-----X

Plaintiff, through its undersigned attorney, alleges as follows for its complaint
against defendants:

FIRST CAUSE OF ACTION

1. This action involves a maritime claim within the meaning of Rule 9(h) with respect to the carriage of the subject cargo under an intermodal through bill of lading involving substantial ocean transportation and falls within the Court’s federal question, diversity, pendent, ancillary, and supplemental jurisdiction as to the remaining aspects of the claim. Plaintiff seeks recovery for cargo loss caused by defendants’ breaches of contract and torts. The amount in controversy, exclusive of interest and costs, exceeds \$75,000.00.

2. Plaintiff Shinkong Insurance Co. Ltd. is an alien corporation organized under the laws of, and with its principal place of business in, a foreign sovereign and sues herein as the subrogated insurer of the cargo in suit, and for and on behalf of the shipper, consignee and owner of the cargo as their interests may appear.

3. Defendants UPS Ocean Freight Services, Inc. and UPS Supply Chain Solutions, Inc. are believed to be corporations organized under the laws of, and with their principal places of business in certain of the fifty states. Upon information and belief defendants are engaged in the business of common carriers, bailees, warehousemen, and/or the provision of services related to such activities, and conduct such business with respect to shipments to, from and within the State of New York.

4. Upon information and belief the captioned vessel is now, or will be during the pendency of this action, within the admiralty and maritime jurisdiction of this Honorable Court or is otherwise subject to jurisdiction pursuant to Rule 4(k)(2) Federal Rules of Civil Procedure.

5. This action involves nondelivery, shortage and loss to a shipment of lighting products, flood lights and lamps which moved, or were intended to move, in container MOGU201847 aboard the M/V "BEI DAI HE", Voyage 397N, from Ningbo, China, to Guadalajara Jalisco, Mexico, by way of Manzanillo Colima, Mexico, on a door-delivery basis, as described more fully in UPS Ocean Freight Services, Inc.¹ intermodal bills of lading NGBUN0606283, 6284 and 6285 dated on or about July 6, 2006, and others. (UPS Ref. No.: NGBUN0606283, Claim No.: X20-799704)

6. The aforementioned nondelivery, shortage and loss was caused by the uncargoworthiness of the carrying vessel and container as well as defendants' reckless

¹ The UPS bill of lading includes a Southern District of New York forum selection clause.

failure to properly load, stow, lash, carry, discharge, protect, secure, deliver and care for the subject cargo, and their unreasonable deviations from the terms of the contract of carriage

7. As a result of the foregoing, plaintiff and those on whose behalf it sues, has sustained damages in the amount of \$100,640.23 for which defendants are jointly and severally liable as common carriers, bailees and/or warehousemen for hire.

8. Plaintiff sues on its own behalf and as agent and trustee for and on behalf of anyone else who may now have or hereafter acquire an interest in this action.

SECOND CAUSE OF ACTION

9. Plaintiff repeats and realleges the allegations in paragraphs 1 through 8 of this complaint.

10. Defendants converted the cargo to their own usage and are liable for the full amount of plaintiff's damages, without limitation of any kind.

WHEREFORE, plaintiff demands judgment against defendants jointly and severally in the amount of \$100,640.23 together with interest at the rate of 9% per annum and the costs of this action and prays that this Honorable Court issue its process against the aforesaid vessel in rem.

Dated: New York, New York
January 9, 2008

LAW OFFICES,
DAVID L. MAZAROLI

s/David L. Mazaroli

David L. Mazaroli (DM 3929)
Attorney for Plaintiff
11 Park Place - Suite 1214
New York, New York 10007
Tel.: (212)267-8480
Fax.: (212)732-7352
E-mail: dlm@mazarolilaw.com
File No.: 7WC-1480